

CITY OF NORWALK - VARIANCE APPLICATION

10/15/20

FEES (includes State of CT land use fee)

1&2 FAMILY RESIDENTIAL	\$260.00
MULTI-FAMILY	\$560.00
COMMERCIAL/INDUSTRIAL	\$560.00
APPEALS	\$260.00
EXTENSION OF TIME	\$510.00

FOR ZBA USE

VARIANCE # _____

Application for:

☒

Variance

☐

Appeal

☐

Special Permit

☐

Special Exception

☐

Extension of time

Eleven (11) copies of this application, eleven (11) copies of Class A-2 Survey showing all buildings - existing and proposed, and eleven (11) sets of dimensioned, scaled general arrangement **project drawings**, where applicable, must be filed along with the application fee of _____. Answer all questions fully using separate sheet if necessary. Please read instructions carefully. **All applications and supplemental information sheets must be typed.**

January 13, 20 21

LOCATION: 490 Westport Avenue

DATE ACQUIRED: 10/02/2007

(Street Address)

Sackett Norwalk 490 LLC

APPLICANT: & Intensity Corp.

ADDRESS: c/o Agent: Carmody Law, 707 Summer Street Stamford, CT 06901

TEL. # c/o Agent: 203-425-4200

OWNER: Sackett Norwalk 490 LLC

ATTORNEY: Jacqueline O. Kaufman

(If other than applicant)

c/o Paragon Management Group LLC

ADDRESS: 276 Post Road Suite 201, Westport, CT 06880

ADDRESS: 707 Summer Street, Stamford, CT 06901

PLATE 21SE DIST. 5 BLOCK 8 LOT 41 ZONE B2 FL. ELEV. N/A CAM N/A

1. STATE VARIANCE OR APPEAL REQUESTED (SPECIFY ZONING SECTIONS).

The Applicants request Variance relief from the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 and Section 118-1000.F & 110-1000.G of the Zoning Regulations as stated in the attached Application Narrative to permit the construction of two (2) outdoor paddle courts and related site improvements.

2. STATE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS. (VARIANCE ONLY.)

See attached Application Narrative.

3. IF APPLICATION IS FOR SETBACK VARIANCE, STATE REQUIRED DISTANCE, PROPOSED DISTANCE (EACH AS SHOWN ON SURVEY), AND STATE REQUIRED VARIANCE DIMENSION (FEET AND DECIMAL FRACTION).

Required Southwesterly Side Yard (Where Residence Zone Abuts)=30'. Proposed Southwesterly Side Yard=4'. Variance Requested=26'.

Required Aggregate Side Yard (Where Residence Zone Abuts)=30'. Proposed Aggregate Side Yard=4.0'. Variance Requested=26'.

Required Rear Yard = 10'. Proposed Rear Yard = 4.7'. Variance Requested = 5.3'.

4. IF APPLICANT IS NOT THE OWNER, STATE APPLICANTS INTEREST:

Intensity Corp. operates a membership based fitness club (also known as a "Commercial Recreation Establishment"

use by the Norwalk Zoning Regulations) on the Property.

5. WHAT PREVIOUS APPLICATION(S) HAVE BEEN MADE FOR VARIANCE FOR THIS PROPERTY. (Give file number and copies if applicable).

N/A

6. DOES PROPERTY CONTAIN WETLANDS OR A WATERCOURSE?

N/A

7. IT IS THE APPLICANT'S RESPONSIBILITY TO NOTIFY ALL ADJOINING PROPERTY OWNERS INCLUDING THOSE ACROSS THE STREET (SEE ATTACHED NOTIFICATION INSTRUCTIONS). LIST THE NAME AND MAILING ADDRESS OF SUCH OWNERS.

See enclosed list of adjoining property owners.

I HEREBY CERTIFY THAT ALL OF THE STATEMENTS HEREIN CONTAINED ARE TRUE AND CORRECT.

Jacqueline C. Kaufman (See enclosed Letter of Authority)

Property Owner Signature

Jacqueline C. Kaufman (See enclosed Letter of Authority)

Applicant Signature

(FOR BOARD USE ONLY)

HEARING DATE: _____

EFFECTIVE DATE: _____

GRANTED ()

GRANTED WITH CONDITIONS ()

DENIED ()

DENIED W/O PREJUDICE

(Chair)

Schedule A - Application Narrative

I. Introduction

Sackett Norwalk 490 LLC (the “Owner”) owns the property known as 490 Westport Avenue, Norwalk, CT (the “Property”). The Property is approximately 1.96+/- acres and is located on the southerly side of Westport Avenue. The Property is located within the Business No. 2 Zone (the “B2 Zone”) and is improved with a commercial building (the “Existing Building”) occupied by Intensity Corp (“Intensity”). Intensity is a membership based fitness club providing fitness, racquet sports and dance instructions. The Property is further improved with fifty-four (54) parking spaces which serve this use.

The Owner and Intensity (collectively, the “Applicants”) seek Variance Approval from the Zoning Board of Appeals of the City of Norwalk (the “ZBA”) to construct two (2) outdoor paddle courts behind the Existing Building. The proposed paddle courts will enable Intensity to provide safe, outdoor recreational opportunities while observing all appropriate health and safety measures due to the ongoing COVID-19 pandemic. The proposed paddle courts will remain a valuable community health and fitness resource when the pandemic concludes.

II. Site Orientation and Background

According to records obtained from the Office of the Assessor, the Existing Building was originally constructed in 1974 when the Property was mostly zoned Light Industrial and a portion of the rear property was zoned B Residential. The Property was subsequently rezoned to B2.

The Property is presently bounded by the B2 Zone on all sides; and a small portion of the southwest property line is adjacent to a strip of 466 Westport Avenue located in the B Residence Zone. This strip of land ranges from approximately 26.6’ to 29.4’ wide at the closest point to the proposed paddle courts. The remainder of 466 Westport Avenue is located in the B2 Zone and is used for commercial purposes. No portion of 466 is used for Residential purposes. The Property is bounded along its southeasterly lot line by a commercial parking lot located at 542 Westport Avenue, a commercial shopping center tenanted by a movie theater, Bed Bath and Beyond and other commercial uses (the “Commercial Parking Lot”). The width of the Commercial Parking Lot varies from approximately 27.4’ to 60.7’.

III. Requested Variances

The proposed paddle courts are raised platforms with safety, perimeter fencing and no roof. They will function as open, recreational space, allowing Intensity patrons to safely participate in outdoor, recreational activities under COVID-19 restrictions and into the future. Notwithstanding the fact that the proposed improvements are passive, open and recreational in nature, the following Variance relief from the Building Zone Regulations of the City of Norwalk (the “Zoning Regulations”) is required to enable the proposed improvements:

- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow the westerly proposed paddle court to be

located 4.0' from the southwesterly property line abutting the B Residence Zone, in lieu of the 30' required (note the westerly paddle court will be approximately 215' away from the closest residential dwelling);

- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow a minimum aggregate Side Yard of 4.0' in lieu of 30';
- A Variance of Sections 118-1000.F and 118-1000.G to allow a buffer of 4.0' between the southwesterly property line and the westerly proposed paddle court in lieu of the 15.5' required (note the westerly paddle court will be approximately 215' away from the closest residential dwelling);
- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow the easterly proposed paddle court to be located 4.7' from the Rear Property Line in lieu of the 10' required (note the easterly proposed paddle court will be approximately 75' away from the closest residential dwelling);
- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow Building Area of 58.3% in lieu of the 50% permitted (note the proposed paddle courts will provide outdoor recreational area);
- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow Building and Parking Area of 83.2% in lieu of the 80% permitted (note the proposed paddle courts will provide outdoor recreational area); and
- A Variance of the Schedule Limiting Height and Bulk of Buildings Commercial and Industrial City of Norwalk Part 2 to allow for Open Space of 16.8% in lieu of the 20% minimum required (note the proposed paddle courts will provide outdoor recreational area).

a. Unique hardship

The Property is uniquely shaped and cited. The Property is shaped such that it narrows to a point in the Rear Yard. The Property is adjacent to a strip of land that is residentially zoned along the southwesterly property line. However, as stated above, this strip of land is part of the commercial property known as 466 Westport Avenue, which is primarily located in the B2 Zone. Similarly, the Property is bordered on the southeast by the Commercial Parking Area servicing the Shopping Center at 542 Westport Avenue. These unique features, and the application of the Setback, Buffer Strip, Building Area and Open Space standards contained in the Zoning Regulations result in exceptional difficulty or unusual hardship by preventing the use of this area for any physical improvement. The two (2) outdoor paddle courts will not adversely impact neighboring properties and the location of the paddle courts as proposed will not negate the rationale and reason for the aforementioned zoning standards.

The building was also constructed in 1974 under the Light Industrial Standards. The Property shape, coupled with changes in applicable zoning standards since the construction of the building, resulted in an a uniquely shaped building that the Applicants are now challenged to contend with under different circumstances. The change in zoning regulations over time present yet another hardship for the Owner and Intensity.

The Zoning Regulations require a minimum setback between residential and commercial uses in order to protect the former from perceived impacts of the latter. While the paddle court will be located 4.0' from the southwesterly property line, it will be 215' from the closest structure utilized for residential dwelling purposes. The residentially zoned property immediately to the west of the Property is a strip of land on 466 Westport Avenue, a commercial lot fronting of Westport Avenue located in both the B2 and B Residence Zone. The portion of 466 Westport Avenue that is located in the B Residence Zone varies in width from 26.6' to 29.4' wide, creating an actual setback of 30.6' to 33.4' between the westerly proposed paddle court and the closest residential lot. As such, application of the Setback and Buffer Strip standards prevent the construction of a paddle court that meets the purpose and intent of these standards, as there will be a sufficient buffer between the proposed paddle courts and the residential uses located to the southwest of the Property.

Similarly, the Rear Yard Setback standards are intended to ensure there is a sufficient amount of space between sensitive neighboring buildings and uses. The Property is bounded by a portion of the commercial parking lot servicing 542 Westport Avenue. Commercial parking is not a sensitive use that requires a typical buffer provided by the Rear Yard Setback standards. Instead, this strip of commercial parking acts as an additional buffer between the Property and residential properties located on Leann Drive. The existing conditions serve the intent of the setback standard and the requested variances will not result in negative impact or undermine the goals of the Zoning Regulations.

Building Area, Building and Parking Area and Open Space standards are designed to limit the bulk and massing of buildings while preserving an appropriate amount of land for recreational, outdoor activity. The proposed paddle courts are raised courts and open on all sides. They will act as "Recreational Areas" as the term is defined by the Zoning Regulations, as the proposed courts will devote "not less than two hundred (200) square feet in size...to recreational activities and recreational equipment and facilities, such as play equipment, swimming pools, picnic tables, tennis courts, landscaping etc."¹ The proposed paddle courts will not increase the bulk or massing of the Existing Building, and will act as Recreational Areas as defined in the Zoning Regulations.

b. Minimum necessary to afford relief

The requested Variances are the minimum necessary to afford relief in that they will allow for the construction of the proposed paddle courts in a manner that will have the least impact on neighboring properties. Constructing the courts in any other location on the Property would not only likely require some combination of Variance relief from Setback, Buffer, Building Area and Open Space standards, but would also result in the loss of onsite parking spaces located on the Property. Locating the proposed paddle courts in any other location would result in site congestion and the courts would be more visible than they will be in the currently proposed location, where they will not disturb surrounding properties.

c. Consistency with the Comprehensive Zoning Plan

¹ See Zoning Regulations, Sec. 118-100 (Definition of Recreational Area).

The requested Variances are consistent with the Comprehensive Zoning Plan. The proposed paddle courts will facilitate Intensity's ability to provide a safe physical fitness experience to its members and guests, thereby contributing to the "commercial [and] employment...needs of the City" in accordance with the purpose and intent of the B2 Zone.² The proposal is also consistent with the goals and policies contained in the Plan of Conservation and Development (the "POCD"). Specifically, the POCD encourages policies that will "retain, grow and attract a wide range of business to increase Norwalk's competitiveness and the Grand List"³ and "create opportunities for healthy choices and wellbeing through easy access to physical activity, healthy food, and medical care."⁴ Approval of the proposal will allow Intensity to remain an integral member of the City's business community, while providing additional resources that may be utilized by City residents to safely engage in healthy physical fitness activities.

² Zoning Regulations, Sec. 118-522.A.

³ POCD, pg. 40.

⁴ POCD, pg. 118.

Schedule B – Adjoining/Abutting Property Owner List

	MBLU	Street Address	Owner's Address
1.	5-8-115-0	498 Westport Ave	Four Hundred Ninety-Eight – - Westport Avenue LLC 8 Huntington St., Ste # 301 Huntington, CT 06484
2.	5-8-114-0	508 Westport Ave	Norwalk 508 Real Estate LLC C/O Paragon Management Group 276 Post Road Ste 201 Westport, CT 06880
3.	5-8-6-0	542 Westport Ave	Elite Development Group LLC C/O Hartt Realty Advisors, LLC - R. Hartt 402 Pequot Avenue #741 Southport, CT 06890
4.	5-8-116-0	466 Westport Ave	Gilbertie Properties LLC 55 Lyons Plains Rd Westport, CT 06880-1304
5.	5-8-24-0	480 Westport Ave	Victor Lalanne 1 Barringer Rd Darien, CT 06820
6.	5-17-5-0	495 Westport Ave	Renzulli Associates Retail – - Business Center LLC 505 Westport Ave, #31 Norwalk, CT 06851-0000
7.	5-17-4-0	469 Westport Ave	EEN Associates LLC C/O Ed Fried 18 Curtis Terrace Fairfield, CT 06825
8.	5-8-84-0	12 Leann Dr	Mynor Quintana 12 Leann Dr Norwalk, CT 06851

9.	5-8-51-0	Westport Ave	Norwalk City Of (Pump Station) 125 East Ave Norwalk, CT 06851-5702
10.	5-8-86-0	16 Leann Dr	Claudia Gaviria 16 Leann Dr Norwalk, CT 06851
11.	5-8-87-0	18 Leann Dr	Fuentes Zuri S Ordonez & Payes-Martinez Walter Osvaldo

			18 Leann Dr Norwalk, CT 06851-0000
12.	5-8-88-0	20 Leann Dr	Robert P & Marjorie Kelly 20 Leann Dr Norwalk, CT 06851-5514
13.	5-17-257-0	517 Westport Ave	Fullin Associates LLC C/O Donna Fullin 1505 Linden Hurst Ave. McLean, VA 22101
14.	5-8-4-0	470 Westport Ave	Gilbertie Properties LLC 55 Lyons Plains Rd Westport, CT 06880-1304
15.	5-8-5-0	506 Westport Ave	Avad Properties LLC 401 Westport Ave Norwalk, CT 06851

Schedule C – Legal Property Description

All that certain piece, parcel or tract of land, together with the buildings thereon, situated in the City of Norwalk, County of Fairfield and State of Connecticut, bounded and described as follows:

NORTHERLY: 100.00 feet by Westport Avenue;
EASTERLY: 250.00 feet;
NORTHERLY: 100.00 feet by land of Mobil Oil Company;
EASTERLY: 222.10 feet by land of Charles T. Raymond, Trustee;
SOUTHERLY: 200.00 feet by land of John Sarno and Michael Sarno; and
WESTERLY: 556.57 feet in part by an old driftway, in part by land of Patrick Gilbarte and Olympia Gilbarte and in part by land of Victor LaLanne and Mary Jane LaLanne.

Said premises being known and designated as Parcel "A-1" as shown and delineated on a certain map entitled, "Resubdivision Map of Property Prepared For 206 Westport Avenue Partners Norwalk, Conn. Scale 1"=30' Jan. 21, 1972", which map is on file in the Office of the Town Clerk of the City of Norwalk by the map number 7596.

Together with and subject to the rights and benefits but subject to the burdens of Declaration of Easements between NRC Realty, LLC and FIVE ZERO EIGHT WESTPORT, LLC dated October 15, 1998 and recorded in Volume 3648 at Page 292 of the Norwalk Land Records.

Together with any and all rights of the grantor in and to a right of way to and from County Street as described in a certain Warranty Deed from Mary Stuart Crane to The 206 Westport Avenue Partners dated June 10, 1971 and recorded in Book 749 at Page 367 of the Norwalk Land Records.